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10 Attorneys for Defendant
11 **MUTEE AL-GHAFFAAR**

12 **IN THE UNITED STATES DISTRICT COURT**
13
14 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

15 UNITED STATES OF AMERICA,

16 Plaintiff,

17 vs.

18 MUTEE AL-GHAFFAAR,

19 Defendant.

Case No. CR 14-548 WHO

**STIPULATION AND ORDER TO
CONTINUE TRIAL SETTING OR
CHANGE OF PLEA TO SEPTEMBER
17, 2015**

20 The United States of America, by and through its attorney of record, and defendant
21 Mutee Al-Ghaffaar (“defendant”), by and through his attorney of record, jointly request that the
22 scheduled court date of August 13, 2015 be vacated and that this matter be continued to
23 September 17, 2015 at 1:30 p.m. to enable the completion of both the criminal history report by
24 the Office of Probation and the drug re-weighing and re-testing by the defense expert. The
25 parties hereby stipulate as follows:

26 1. At the last court proceeding on June 18, 2015, the defense counsel requested,
27 and the Court ordered, that the Office of Probation prepare a criminal history report, including
28 whether defendant qualifies as a career offender under U.S.S.G. § 4B1.1. Because defendant’s
criminal history includes a number of felony convictions for Transportation, Sale, etc. of a

1 Controlled Substance under California Health & Safety Code § 11352(a), a modified
2 categorical analysis is required for each of those convictions to determine whether they qualify
3 as a “controlled substance offense” as defined in U.S.S.G. § 4B1.2(b). Given the extent of
4 defendant’s criminal history, and the need to obtain numerous state conviction documents, the
5 assigned probation officer has advised that she will not be able to complete the criminal history
6 report by August 3, 2015 and will need additional time.

7 2. In addition, by letter dated June 25, 2015, the defense counsel requested that the
8 government produce the controlled substances in this case for the purpose of re-weighing and
9 re-testing of those substances by a defense expert at a private laboratory. Defense counsel has
10 received CJA funding approval for the expert services and has notified government’s counsel,
11 who has been facilitating defendant’s request. Since the re-weighing and re-testing involve a
12 two-step process, the parties will file, within the next few days, two stipulations and proposed
13 orders setting forth the procedures for this re-analysis, in coordination with the DEA
14 Laboratory. Government’s counsel has been informed by the DEA Laboratory that the re-
15 weighing and re-testing procedures typically take thirty days to complete.

16 3. For the reasons stated above, the parties stipulate and agree that this matter
17 should be continued to September 17, 2015 at 1:30 p.m., and that the failure to grant such a
18 continuance would unreasonably deny the defendant the reasonable time necessary for effective
19 preparation, taking into account the exercise of due diligence. The parties further stipulate and
20 agree that the time from August 13, 2015 to September 17, 2015 should be excluded on the
21 basis that the ends of justice are served by taking such action which outweigh the best interest
22 of the public and the defendant in a speedy trial and for effective preparation of counsel, taking
23 into account the exercise of due diligence, under 18 U.S.C. § 3161(h)(7)(A) and (B)(iv).

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1 DATED: July 31, 2015

Respectfully submitted,

2 MELINDA HAAG
3 United States Attorney

4 /s/

5 DEBORAH R. DOUGLAS
Assistant United States Attorney

6 /s/


7 RICHARD HULLINGER
8 GARRICK S. LEW
9 Attorneys for Defendant
10 MUTEE AL-GHAFFAAR

11 ORDER

12 Upon the parties' stipulation, and GOOD CAUSE appearing, IT IS HEREBY
13 ORDERED that the court date of August 13, 2015 shall be vacated and that this matter shall be
14 continued to September 17, 2015 at 1:30 p.m. for trial setting or change of plea. IT IS
15 FURTHER ORDERED that the time from August 13, 2015 to September 17, 2015 shall be
16 excluded in accordance with the provisions of the Speedy Trial Act, 18 U.S.C.
17 §§ 3161(h)(7)(A) and (B)(iv). The Court finds that (A) failure to grant the continuance would
18 unreasonably deny the defendant the reasonable time necessary for effective preparation, taking
19 into account the exercise of due diligence; and (B) the ends of justice served by the continuance
20 outweigh the best interests of the public and the defendant in a speedy trial.

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22 **IT IS SO ORDERED.**

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24 Dated: August 3, 2015

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HONORABLE WILLIAM H. ORRICK
UNITED STATES DISTRICT JUDGE